

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

UNITED STATES DISTRICT COURT

for the

Western District of Washington

Civil Division

King, David A
Voisinnet, Maryann E

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Timber Ridge Trading & Manufacturing Company

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case No.

19 CV 01617

(to be filled in by the Clerk's Office)

RAJ

Jury Trial: (check one) ☒ Yes ☐ NoFILED
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MAIL

OCT 08 2019

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

| | |
|--------------------|--|
| Name | King, David A & Voisinnet, Maryann E |
| Street Address | 6613 Hammersmith Drive |
| City and County | Raleigh, Wake |
| State and Zip Code | North Carolina 27613 |
| Telephone Number | 919 605 2115 / 919 605 2036 |
| E-mail Address | David44357@gmail.com / maryann.e.voisinnet@gmail.com |

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title *(if known)*. Attach additional pages if needed.

Defendant No. 1

| | |
|----------------------------------|--|
| Name | Timber Ridge Trading & Manufacturing Company |
| Job or Title <i>(if known)</i> | |
| Street Address | 10017 Yukon Avenue S. |
| City and County | Bloomington, Hennepin |
| State and Zip Code | Minnesota 55438 |
| Telephone Number | |
| E-mail Address <i>(if known)</i> | |

Defendant No. 2

| | |
|----------------------------------|--|
| Name | |
| Job or Title <i>(if known)</i> | |
| Street Address | |
| City and County | |
| State and Zip Code | |
| Telephone Number | |
| E-mail Address <i>(if known)</i> | |

Defendant No. 3

| | |
|----------------------------------|--|
| Name | |
| Job or Title <i>(if known)</i> | |
| Street Address | |
| City and County | |
| State and Zip Code | |
| Telephone Number | |
| E-mail Address <i>(if known)</i> | |

Defendant No. 4

| | |
|--------------------------------|--|
| Name | |
| Job or Title <i>(if known)</i> | |
| Street Address | |
| City and County | |
| State and Zip Code | |
| Telephone Number | |

E-mail Address (if known) _____

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (check all that apply)

☐ Federal question

☒ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, (name) King, David A & Voisinet, Maryann E, is a citizen of the State of (name) North Carolina.

b. If the plaintiff is a corporation

The plaintiff, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, (name) _____, is a citizen of
the State of (name) _____. Or is a citizen of
(foreign nation) _____.

b. If the defendant is a corporation

The defendant, (name) Timber Ridge Trading & Manuf. Co., is incorporated under
the laws of the State of (name) Minnesota, and has its
principal place of business in the State of (name) Minnesota.
Or is incorporated under the laws of (foreign nation) _____,
and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

Plaintiff seeks compensatory damages for a lifelong disability in his dominant hand due to severed finger tendons. Based on caselaw, Plaintiff expects compensatory damages to exceed \$75,000. Plaintiff(s) also seek punitive damages, pain and suffering, loss of consortium, reasonable attorney fees/expenses, and medical costs.

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

The defendant advertised that their wood-cutting blades are safe to use on an angle grinder to cut notches in wood beams and would have "no kickback." Plaintiff used the blade on his angle grinder to cut out notches on a wood beam and was injured by kickback. Plaintiff later learned wood-cutting blades are not safe to use on an angle grinder because of the kickback. Plaintiff is suing for breach of express warranty, breach of implied warranty, failure to warn, and false advertising.

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

Plaintiff seeks compensatory damages for a lifelong disability in his dominant hand due to severed finger tendons. Plaintiff(s) also seek punitive damages, pain and suffering, loss of consortium, reasonable attorney fees/expenses, and medical costs.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 10-3-2019

Signature of Plaintiff

Printed Name of Plaintiff

David King

Maryann Voisinet

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

King, David A,

Plaintiff, pro se

vs.

Timber Ridge Trading &
Manufacturing Company,

Defendant.

CASE NO.

ORIGINAL
COMPLAINT

COMES NOW PLAINTIFF who alleges as follows:

SUMMARY

This is a products liability case regarding a blade the plaintiff bought on Amazon.com. The defendant promised in its advertising that the blade had “no kickback” and was safe to use on an angle grinder to notch wood beams. Plaintiff used the blade on his angle grinder to notch a wood beam and was injured by kickback. The plaintiff later learned that wood-cutting blades cannot be safely used on an angle grinder because of kickback. Plaintiff now sues for damages under theories of express warranty, implied warranty, failure to warn, and false advertising.

PROCEDURAL HISTORY

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1. This case was originally brought in North Carolina, where the injury occurred. That court held that the defendant did not have sufficient continuous and systematic contacts with North Carolina to establish jurisdiction. That court said:

8 a. The defendant lacked purposeful availment, because it did not
9 intentionally cause Amazon.com to sell the product in NC.

10
11 b. Over the last several years, the defendant has only shipped a
12 couple products to North Carolina.

13 c. The defendant has no resellers in North Carolina.

14
15 2. In contrast to North Carolina, in Washington:

16 a. The defendant purposefully contracted with Amazon.com, who
17 supports the ownership, advertising, sale, and shipment of the
18 defendant's products from Washington. As part of this partnership,
19 the defendant expressly agreed to litigate any disputes with
20 Amazon.com in Washington using Washington law.

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23 b. Defendant's has systematic and continuous contacts with
24 Washington for a larger portion of its sales.

25
26 c. The defendant does have a major reseller (Amazon.com) in the
27 jurisdiction.
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JURISDICTION AND VENUE

3. Jurisdiction is proper under WA ST § 4.28.185(A)(1).
4. Jurisdiction and venue is proper under RCW § 4.12.020(3).
5. Federal jurisdiction is proper under diversity principles. Damages exceed \$75,000 and there is complete diversity.
6. Washington law is proper under the “most significant relationship” test articulated in Washington caselaw.

PARTIES

7. Plaintiff David King is a consumer and homeowner, who does occasional home improvement projects. He is domiciled in Raleigh, Wake County, North Carolina.
8. Defendant Timber Ridge is a corporation with various business interests, including selling wood-cutting blades for angle grinders under the Bad Blade and Kwik Tools trademarks. Its principal place of business and state of incorporation is Minnesota.

BACKGROUND

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9. Kickback is a sudden forceful recoil that can occur when using a wood-cutting blade on a power saw. Typically, the front of the blade cuts wood, while the back glides harmlessly through the cut. However, when the non-cutting rear of the blade makes contact with wood, the back side of the blade's teeth grip the wood rather than cutting it. This causes a sudden jolt of force from the blade's rotational power. Kickback is the most common source of woodworking injuries.
10. Power saws intended for cutting wood have various safety features to avoid or mitigate kickback. They operate at lower RPMs to reduce the force of a kickback; they stop the blade when the user loses control and lets go of the trigger; they use platforms to ensure a straight cut; etc.
11. In contrast, angle grinders are designed for cutting plastic or metal with smooth grinding discs that do not have teeth. They are not designed for safely cutting wood or addressing the dangers of kickback. For example, angle grinders typically operate at 10,000 RPMs, more than doubling the force of a kickback compared to a 4,000 RPM circular saw. They continue running even if the user loses control and lack any flat surfaces to ensure a straight cut and avoid kickback.

FACTS

12. Plaintiff bought a wood-cutting blade for his angle grinder on Amazon.com on October 20th, 2018.

13. In its advertising the defendant said the blade could be used on an angle grinder for “beam notching . . . with NO kick back!” The Amazon.com listing emphasized the blade had “awesome cutting ability with NO Kick-Back” because of a “patented blade concept” and “specially-designed tooth layout.”

14. Plaintiff used the blade on his angle grinder to notch a wood beam on his deck. He immediately experienced a substantial kickback, causing the plaintiff to lose control of the angle grinder. The blade made contact with Plaintiff’s fingers, severing the tendons in the middle and ring fingers of his dominant hand.

15. Among other damages, the plaintiff now has a permanent disability in his dominant hand. The severed tendons make it more difficult to write, grasp objects, do yard work, or perform other tasks.

CAUSES OF ACTION

EXPRESS WARRANTY

The commercial seller of a product is liable for damages when the seller makes a material false promise that was part of the bargain. Here, the defendant induced sales by falsely promising the blade had no kickback.

IMPLIED WARRANTY

The commercial seller of a product is liable for damages when it sells a product that is not fit for its ordinary intended purpose. Here, the blade is extremely dangerous to use for its intended purpose of cutting wood with an angle grinder.

FAILURE TO WARN

The commercial seller of a product is liable for damages if it fails to provide reasonable warnings and instructions regarding a non-obvious danger. Here, the danger of an extraordinary kickback is counterintuitive to a lay consumer. Instead of warning the consumer, the seller promised the danger didn't exist.

FALSE ADVERTISING

The commercial seller of a product is liable for damages under false advertising law if they make a material false claim about the product. Here, the defendant falsely claimed the blade had no kickback and was safe to use on angle grinder for wood-cutting.

PRAYER

WHEREFORE, Plaintiff prays for judgment as follows:

1. Compensatory damages
2. Pain and suffering damages
3. Punitive damages
4. Loss of consortium damages
5. Reasonable attorney fees and expenses
6. Other damages as deemed equitable by the court

Date: October 2, 2019

DAVID KING
/s/ David King

plu huf

Maryann Voisin

[Signature]